

**CHAPTER NO. 203**

**HOUSE BILL NO. 1317**

**By Representatives Davidson, Cooper, Pleasant**

**Substituted for: Senate Bill No. 897**

**By Senator Haynes**

AN ACT to amend Tennessee Code Annotated, Section 49-7-802; Section 49-7-805(13), 49-7-809(a)(2) and Section 49-7-811, relative to the Tennessee Baccaulaureate Education System Trust Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-7-802(3), is amended by deleting the word "individuals" and by substituting instead the words and punctuation "individuals, associations, corporations, trusts or other organized entities".

SECTION 2. Tennessee Code Annotated, Section 49-7-802(4), is amended by deleting the word "individuals" and by substituting instead the words "individuals, associations, corporations, trusts or other organized entities".

SECTION 3. Tennessee Code Annotated, Section 49-7-802(8), is amended by deleting the word "individual" wherever the same appears in that subdivision and by substituting instead the words and punctuation "individual, association, corporation, trust or other organized entity".

SECTION 4. Tennessee Code Annotated, Section 49-7-802, is amended by deleting from the current subdivision (13)(B), the words and figures "subdivision (13)(A)" and by substituting instead the words and figures "subdivision (14)(A)".

SECTION 5. Tennessee Code Annotated, Section 49-7-802, is amended by adding the following as a new subdivision (9) and by redesignating the subsequent subdivisions accordingly:

(9) "Refund recipient" means the person designated in a tuition contract by the purchaser as the person entitled to terminate the tuition contract and to receive refunds arising out of the contract pursuant to § 49-7-811.

SECTION 6. Tennessee Code Annotated, Section 49-7-809(a), is amended by deleting subdivisions (3) and (4) in their entirety and by substituting instead the following:

(3) The name of the refund recipient;

(4) The terms and conditions under which the contract may be terminated by the refund recipient and the amount of the refund, if any, to which the refund recipient is entitled upon termination;

SECTION 7. Tennessee Code Annotated, Section 49-7-811(a)(1), is amended by deleting the same in its entirety and by substituting instead the following:

(a) (1) A tuition contract may be terminated by the refund recipient under any of the following conditions upon written request of the refund recipient to the board:

SECTION 8. Tennessee Code Annotated, Section 49-7-811(b), is amended by deleting the same in its entirety and by substituting instead the following:

(b) The board shall determine the amount of the refund to which the refund recipient is entitled upon a contract termination.

SECTION 9. Tennessee Code Annotated, Section 49-7-811(d), is amended by deleting from the first sentence thereof the words "upon the request of the beneficiary" and by substituting instead the words "upon the request of the refund recipient".

SECTION 10. Tennessee Code Annotated, Section 49-7-811(d)(1)(A), is amended by deleting from the first sentence thereof the words "person designated in the contract" and by substituting instead the words "refund recipient".

SECTION 11. Tennessee Code Annotated, Section 49-7-811(d)(1)(B), is amended by deleting from the first sentence thereof the word "beneficiary" and by substituting instead the words "refund recipient"

SECTION 12. Tennessee Code Annotated, Section 49-7-811(d)(1)(B), is further amended by deleting from the second sentence thereof the words "person designated in the contract" and by substituting instead the words "refund recipient".

SECTION 13. Tennessee Code Annotated, Section 49-7-811, is amended by adding the following new subsections at the end thereof:

(g) Unless otherwise provided for in the contract, a tuition contract entered into under this part through the educational savings plan may be terminated by the refund recipient for any reason upon written request of the refund recipient to the board. Termination shall occur no earlier than a maturity period as may be set by the board after the first contribution is made to the account. The board shall determine the refund amount and the method and schedule for payment of the refund.

(h) Notwithstanding any provision of the law to the contrary, the board may promulgate substantive and procedural rules to permit a refund recipient to withdraw part of the balance from a savings account established under the educational savings plan without causing termination of the tuition contract and without requiring the refund recipient to establish that the withdrawn amount will be used to pay the tuition or other educational costs of the beneficiary. Such rules shall set forth the amount of the penalty, if any, to be deducted from the partial payment. The amount of any such penalty shall not be less than the safe harbor penalty as provided under the regulations of the Internal Revenue Service which are applicable to the program.


SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 2, 2001

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 10<sup>th</sup> day of May 2001

  
DON CONQUIST, GOVERNOR